

**Remarks / Arguments:**

For the convenience of the Examiner and clarity of purpose, Applicant has reprinted the substance of the Office Action in *10-point bolded and italicized font*. Applicant's arguments immediately follow in regular font.

Examiner states that:

*Claims 1, 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guppy (Reference U)*

*Claims 1, 4 and 5, Guppy discloses a method for providing downside protection of stock market investments for managing an investment portfolio comprising the steps of: using a stop loss percentage for the security, multiplying the stop loss percentage by a high value for the security and subtracting the resulting product from the high value to generate a sell threshold price, comparing the sell threshold price to the market price, and executing a sell event when the market price is below the sell threshold price (See the disclosure of Guppy) These steps known as trailing stop loss technique are old and well known to one of ordinary skill in the investment art. These steps help investors minimize their losses while allowing them to benefit from rising security prices. (For the purpose of illustration and explanation of the trailing stop loss technique applicants may also see the E\*TRADE article. Even though the date of publication of this article is unknown it illustrates the concepts and details of the trailing stop loss technique). A computer-readable medium and a system for conducting these steps are old and well known in the art.*

*Guppy does not explicitly teach the steps of entering a name of a security into the automated data processing system through the input device; storing the name of the security in the memory; entering data for the security into the automated data processing system through the input device; storing the data for the security in the memory; entering a buy price of the security into the automated data processing system through the input device; storing the buy price of the security in the memory as the high value; linking the automated data processing system by a data link to current stock information; and reading a market price of the security from the current stock information.*

*Official notice is taken that these steps are old and well known in the investment and trading art. These steps help automate the trading process with minimum human intervention.*

*It would have been obvious to one of ordinary skill in the art to include these steps to the disclosure of Guppy. The combination of disclosures suggests that investors would have benefited from automating the trading process with minimum human intervention.*

*Claim 3, the step of printing a summary of the sell information when the sell event occurs is also old and well known. This step provides a record of the sale and helps in the audit trail of the transaction.*

However, Guppy states:

To decide what type of stop-loss technique is most useful, we must first decide what the stop loss is designed to achieve. Initially the stop loss is calculated on the entry price and is designed to prevent losses growing and eating away at our trading capital.

In a rising trend, the stop loss is designed as a “protect profit” condition. Here, it is called a trailing stop loss because it trails behind the most recent price action. It is also called a protect profit stop loss. Many people favor using a 5.0 or 10 per cent stop loss as a method of protecting profits. This approach is promoted by a number of mechanical trading systems and by some market commentators. This is called a floating stop loss, and is most frequently based on a percentage retracement figure calculated from the high of the day. **A close below the trailing stop loss, or protect profit stop loss, is taken as an exit signal. It is acted on the next day.**

The objectives of a protect profit stop loss technique are: To protect profits; and To stay with the trend for as long as possible.

These objectives are sometimes contradictory because at times, the protect profit exit signal will come even though the up-trend is still intact. This is an advantage in fast-moving momentum-driven stocks that have sharp rising trends and which are prone to sudden collapses. It is less useful in slow-moving, steady trends. The trader must find a balance between the two objectives. In selecting a stop-loss technique, the trader must choose between those techniques that are related to the changes in volatility of the stock price, and those that use a pre-set figure. The floating stop loss is based on a pre-selected figure, not on the volatility of the stock. The figure is selected by the trading system, or by the user. The most common 5.0 or 10 percent figure is **regarded as floating because it is recalculated each day.**

The problem with this technique is that the exit signal bears little relationship to the trend as defined by a straight edge trend line. The trendiness of price activity is not factored into the floating percentage stop-loss calculation. Sometimes, this means taking premature profits. At other times, it means the stop-loss exit signal is not given until well after the collapse of the trend.

For each new price, the percentage risk remains the same as a percentage of the new price, but the actual dollar value increases. This is inconsistent with the way trends develop. The risk of a trend collapse is highest at the very beginning of a trend and again towards the very end of a trend. Good money management adds to early positions in a trend as it grows, and reduces the size of new trades as the trend matures. The floating stop-loss technique actually increases the financial risk as the trend matures because the growth of allowable risk is not related to the changes in volatility of the trend, which precede a trend change.”

Applicant respectfully disagrees with the examiner’s characterization of what Guppy discloses. In addition, examiner has not explained how Guppy teaches the present invention. Step m of claim 1 is a repetitive step or a continual recalculation of the sell threshold price as well as a continual trigger mechanism for a sell event as soon as the market price drops below the sell threshold price. Applicant does not find this important step to be in the Guppy article. Guppy is an article about trends where the

article alludes to stop loss. It says “to decide what type of stop-loss technique is most useful. . .” According to investorwords.com, retracement is a price movement in the opposite direction of the previous trend. Guppy briefly mentions what he calls two types of Stop Loss: Trailing Stop Loss (trails behind the most recent price action), Floating Stop Loss based on % retracement (i.e., % in price movement from the previous trend, based on the high of the day). Applicant believes that Guppy is talking from the viewpoint of a non-real time environment. A price could possibly reach 0 by the end of the day before any "act" would take place tomorrow. To further explain Guppy, the % retracement figure is calculated from the high of the day and is then only compared to the close. If the close is less than the Stop Loss, an "act" will take place the next day. The Guppy article briefly mentions a few similar terms but it does not teach or describe the present invention.

The present invention has striking differences: Real-time mechanism to allow for fluctuations during the course of the day, by continually repeating the process during the market day; Resetting the actual Stop Loss stock price (not the %) based on the revised high market price; Not necessary to have to wait until tomorrow before transaction takes place; and A trigger mechanism.

To establish a prima facie case of obviousness, three basic criteria must be met. The prior art reference (or references when combined) must teach or suggest all the claim limitations. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and stated in MPEP 706.02(j) and 2143.03 All Claim Limitations Must be Taught or Suggested.

Examiner relies on the statement “old and well know to one of ordinary skill in the investment art.” The assumption that this was obvious to one having ordinary skill in the art at the time the invention was made (over five years ago) is traversed. The applicant requests that the examiner provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding as per 37 CFR 1.104(d)(2). The Applicant further requests that this evidence take into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from

applicant's disclosure nor be based on reconstruction at the time using improper hindsight reasoning.

Applicant will submit a rule 131 Affidavit if needed to demonstrate that the applicant's date of invention is earlier than the effective date of the Guppy reference. Applicant states: the computer program in program language that includes the steps of claim 1 of the present invention was received at the copyright office by Mary Beth Peters February 17, 2000.

For many computer-related inventions, it is not unusual for the claimed invention to involve more than one field of technology. For such inventions, the disclosure must satisfy the enablement standard for each aspect of the invention. See *In re Naquin*, 398 F.2d 863, 866, 158 USPQ 317, 319 CCPA 1968) ("When an invention, in its different aspects, involves distinct arts, that specification is adequate which enables the adepts of each art, those who have the best chance of being enabled, to carry out the aspect proper to their specialty.")

Since Guppy does not disclose the method of claim 1, the computer-readable medium of claim 4, or the system of claim 5, applicant believes that these claims with current amendments are allowable and reconsideration is respectfully requested.

It is well know in the law that **the prior art must be assessed and resolved in light of the knowledge possessed by a person of ordinary skill in the art at the time the invention was made**. The E\*TRADE article is dated 3/7/2006. This is over five years after the application was filed and approximately three and a half years after the applicant's application was published 8/1/2002. The E\*TRADE article should not be referenced.

Claim 1 is currently amended only to clarify that the resulting product is the product of the stop loss percentage multiplied by the high value. It is believed that no new matter is added and is allowable.

*Claims 2 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

*Claim 2 recites steps a-d. It is not clear where and how these steps fit in, in relation to claim 1. Similarly claim 7 recites step a. It is not clear where and how this step fits in, in relation to claims 5 and 6. Similar ambiguity is present in claim 8. Appropriate clarification/correction is required. In view of these ambiguities, the examiner is unable to provide an art rejection for these claims.*

Claim 2 is currently amended to combine independent claim 1 with dependent claim 2 thereby making claim 2 an independent claim. The independent claim now recites all steps in order as stated and depicted in the specification and drawings. The word currency is inserted in the phrase maximum stop loss amount at the examiner's request to clarify that it is a monetary amount and not a percentage amount. The amendments are for clarification and not limitation. It is believed that no new matter is added and is allowable. Reconsideration of the 35 U.S.C. 112, second paragraph rejection is respectfully requested.

Claim 3 is currently amended to depend from independent claim 2. Dependent claim 3 shares in the patentability of the independent claim from which it depends. It is believed that no new matter is added and is allowable. Reconsideration of this rejection is respectfully requested.

Claim 4 is currently amended only to clarify the resulting product is the product of the stop loss percentage multiplied by the high value. As discussed, Guppy does not teach or disclose the computer-readable medium of claim 4. Reconsideration of this rejection is respectfully requested. It is believed that no new matter is added and is allowable.

Claim 5 was previously amended. As discussed, Guppy does not teach or disclose the system of claim 5. Reconsideration of this rejection is respectfully requested as it is believed that claim 5 is allowable.

*Claims 2 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

*Claim 2 recites steps a-d. It is not clear where and how these steps fit in, in relation to claim 1. Similarly claim 7 recites step a. It is not clear where and how this step fits in, in relation to claims 5 and 6. Similar ambiguity is present in claim 8. Appropriate clarification/correction is required. In view of these ambiguities, the examiner is unable to provide an art rejection for these claims.*

Claim 6 is an original claim. Applicant respectfully disagrees that claim 6 is indefinite for failing to particularly point out and distinctly claim the subject matter. The examiner has alluded to steps but has not stated why claim 6 is indefinite. Claim 6 is a system apparatus claim comprised of elements not steps as the examiner describes and is allowable. Reconsideration of this rejection is respectfully requested.

Claim 7 is an original claim. Applicant respectfully disagrees that claim 7 is indefinite for failing to particularly point out and distinctly claim the subject matter. Claim 7 is a system apparatus claim comprised of elements not steps as the examiner describes. As stated on page 11, line 9 through 11, "The input device **100** may further include a data link connecting the automated data processor **104** and a data source of current stock information for reading a market price of the security from current stock information." It is clear as to the element connection and the claim should be allowed. Reconsideration of this rejection is respectfully requested.

Claim 8 is currently amended to combine independent claim 5 with dependent claim 8 thereby making claim 8 an independent claim. The independent claim now recites all steps in order as stated and depicted in the specification and drawings. The word currency is inserted in the phrase maximum stop loss amount at the examiner's request to clarify that it is a monetary amount and not a percentage amount. The phrase "stop loss percentage multiplied by the high value exceeds the maximum stop loss currency amount, the maximum stop loss currency amount is used to generate the sell threshold price" is added along with the phrase "by calculating the sell threshold price using the maximum stop loss currency amount" and "of the security and if market price of the security is less than the sell threshold price then to initiate a sell event." This terminology is stated in the specification page 16, line 14 through page 17, line 10 as well as in the drawings in FIG. 4, and FIG. 6 and in claim 2. The amendments are for clarification and not limitation. It is believed that no new matter is added and is allowable. Reconsideration of the 35 U.S.C. 112, second paragraph rejection is respectfully requested.

Claim 9 is a new dependent claim that is the same as original dependent claim 6 only it depends now from independent claim 8. Dependent claim 9 shares in the patentability of the independent claim from which it depends. It is believed that no new matter is added and should be allowed.

Claim 10 is a new claim that is the same as original dependent claim 7 only it depends from dependent claim 9 that depends from independent claim 8. Dependent claim 10 shares in the patentability of the independent claim from which it depends. It is believed that no new matter is added and is allowable.

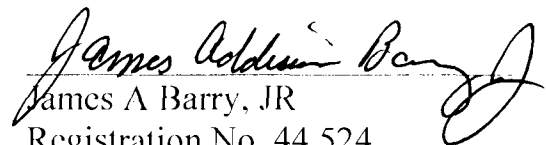
Claim 11 is a new claim. This is an independent claim for a computer-readable medium related to the method of now independent claim 2. It is believed that no new matter is added and is allowable.

In view of the foregoing, it is respectfully submitted that now pending claims 1 through 8 and new claims 9 through 11 as proposed are in allowable condition. Accordingly, consideration of early allowance and issuance of this application is respectfully requested.

There are currently 11 total claims and 6 independent claims. The fee for the additional three independent claims is submitted with the amendment.

To expedite this application in the event the Examiner wishes to discuss any aspect of this response, please continue to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

  
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